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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,938	06/27/2001	Keith A. Merwin	D-7173-1	5571
44885	7590	06/29/2005	EXAMINER	
ARTHUR G. YEAGER, P.A. 245-1 EAST ADAMS STREET JACKSONVILLE, FL 32202-3336			HOOSAIN, ALLAN	
			ART UNIT	PAPER NUMBER
			2645	

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/892,938

Applicant(s)

MERWIN ET AL.

Examiner

Allan Hoosain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,5-15 and 17-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1,3,5-15,17 and 18 is/are allowed.
- 6) ☐ Claim(s) 19 and 20 is/are rejected.
- 7) ☐ Claim(s) 21-23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **FINAL DETAILED ACTION**

### ***Allowable Subject Matter***

1. Claims 1,3,5-15,17-18 are allowed.
2. Claims 21-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 19 recites the limitation "the manner" in step G. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. Claims 19-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by **Miner et al.** (US 5,652,789).

As to Claim 19, with respect to Figure 26-30, **Miner** teaches a method of scheduling a reminder call from an automated, computerized voice message storage and redelivery system (SRS) and receiving by a subscriber a reminder call from the SRS comprising the steps of:

A. providing to the SRS when a reminder call is to be made by the SRS (Col. 40, lines 15-34);

B. providing to the SRS by a subscriber, telephone numbers associated with a subscriber that are to be called by the SRS to deliver a reminder call and information as to whether the telephone associated with the numbers will be answered by a party (human voice or a digital voice) (Col. 41, lines 23-36 and Col. 35, lines 14-40);

C. providing to the SRS the message to be included in the reminder call (Col. 40, lines 6-15);

D. recording by the SRS the information provided in step A (Col. 40, lines 6-15);

E. calling a telephone number of step B as provided in step A (Col. 41, lines 23-30);

F. if the telephone number of step E is answered, determining by the SRS if a subscriber (human voice or digital voice) has answered the telephone (Col. 41, lines 40-42); and

G. selecting the manner in which the message of step C will be delivered based upon the determination of step F (Col. 41, lines 42-52).

As to Claim 20, **Miner** teaches the method of Claim 19 wherein step A includes the step of:

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H. providing to the SRS that steps B-G will be rescheduled (repeated on predetermined days and at predetermined times) (Col. 41, lines 44-50).

### ***Response to Arguments***

7. Applicant's arguments filed in the 12/27/04 Remarks have been fully considered but they are not persuasive because of the following:

Claims 19-20 are rejected for the reasons given in the instant office action. Examiner respectfully invites Applicants to contact Examiner to discuss possible amendments for overcoming the prior art of record.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Tuttle** (US 6,324,262) teaches message delivery with answering machine detection.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any response to this final action should be mailed to:

**Box AF**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 872-9314, (for formal communications; please mark "EXPEDITED  
PROCEDURE")

**Or:**

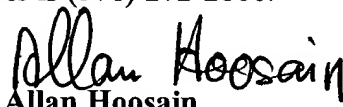
(703) 306-0377 (for customer service assistance)

Hand-delivered responses should be brought to Carlyle, Alexandria,  
VA 22313 (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Allan Hoosain** whose telephone number is (571) 272-7543. The examiner can normally be reached on Monday to Friday from 8 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Fan Tsang**, can be reached on (571) 272-7547.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

  
**Allan Hoosain**  
**Primary Examiner**  
6/10/05